

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DIVISION OF MISSISSIPPI
SOUTHERN DIVISION

THE AMERICAN INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:07CV746HTW-LRA

C.E. FRAZIER CONSTRUCTION
COMPANY, ET AL.

DEFENDANTS

REBUTTAL TO REPLY MEMORANDUM OF PHYLLIS FRAZIER IN
PARTIAL OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

COMES NOW the plaintiff, The American Insurance Company, ("American"), by and through its attorneys of record, Shell Buford, PLLC, and files this Rebuttal to *Reply Memorandum of Phyllis Frazier in Partial Opposition to Motion for Summary Judgment* in the above-styled action, and in support thereof states as follows:

American, as surety for and on behalf of Pryor and Frazier Construction Company, issued five (5) tax rider bonds for five different projects. On or about 15, 2007, American received a letter from the Mississippi State Tax Commission demanding a payment of \$64, 645.00 under said tax rider bonds. A copy said letter is attached hereto as Exhibit "A".

American previously communicated with the Defendants in an effort to resolve the claims set forth by Mississippi State Tax Commission in regards to \$64,645.00 owed under the five (5) tax rider bonds, but it has not received any cooperation from the Defendants. American has not paid any of the claims related to the \$64,645.00 demand by the Mississippi State Tax Commission under the five (5) tax rider bonds.

It is the contention of American that the Defendants are liable for the amount owed to the Mississippi State Tax Commission under the *General Indemnity Agreement*

executed by the Defendants in favor of American as Indemnatee.

Respectfully submitted,

THE AMERICAN INSURANCE COMPANY

By: s/ Lamar Watts
LAMAR WATTS

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ATTORNEYS FOR THE AMERICAN INSURANCE COMPANY

CERTIFICATE OF SERVICE

I, Lamar Watts, attorney for the Plaintiff, The American Insurance Company, do hereby certify that I have filed the foregoing with the Clerk of the Court using the ECF system which should have sent notification of such filing to the following:

William N. Reed, Esq.
Baker, Donelson, Bearman,
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This the 14th day of November, 2008.

s/ Lamar Watts
Lamar Watts